

**Internal Revenue Service**

Appeals Office  
4330 Watt Avenue SA 7890  
Sacramento, CA 95821-7012

**Department of the Treasury****Employer Identification Number:****Date:** Release Number: 201633035

Release Date: 8/12/2016

Date: May 19, 2016

UIL Code: 501.06-00

**Person to Contact:**

Employee ID Number:

Tel:

Fax:

**Tax Periods Ended:****Certified Mail**

Dear :

This is a final determination that you do not qualify for exemption from Federal income tax under Internal Revenue Code (the "Code") section 501(a) as an organization described in Code section 501(c)(6) for the tax periods above. Your determination letter dated is revoked.

Our adverse determination as to your exempt status was made for the following reason(s):

Organizations exempt from tax under section 501(c)(6) of the Internal Revenue Code, including business leagues formed to promote the common interests of members engaged in a particular line of business, must not be organized for profit and no part of the net earnings may inure to the benefit of any private shareholder or individual. A substantial portion of your activities includes the performance of regular services for individual members, including the promotion of the individual member's business, rather than promoting the industry as a whole or seeking to improve business conditions for the industry as a whole. See Treas. Reg. 1.501(c)(6)-1. Therefore, you are not an organization described in Code section 501(c)(6).

You do not promote the advancement of any particular line of business or the improvement of business conditions; rather you promote the individual businesses of your members. Therefore, you do not qualify for exemption as an organization described in section 501(c)(6) of the Code.

You are required to file Federal income tax returns on Forms 1120. File your returns with the appropriate Internal Revenue Service Center per the instructions of the return. For further instructions, forms, and information please visit [www.irs.gov](http://www.irs.gov).

We will make this letter and the proposed adverse determination letter available for public inspection under Code section 6110 after deleting certain identifying information. We have provided to you, in a separate mailing, Notice 437, *Notice of Intention to Disclose*. Please review the Notice 437 and the documents attached that show our proposed deletions. If you disagree with our proposed deletions, follow the instructions in Notice 437.

If you decide to contest this determination, you may file an action for declaratory judgment under the provisions of section 7428 of the Code in one of the following three venues: 1) United States Tax Court, 2) the United States Court of Federal Claims, or 3) the United States District Court for the District of Columbia. A petition or complaint in one of these three courts must be filed within 90 days from the date this determination letter was mailed to you. Please contact the clerk of the appropriate court for rules and the appropriate forms for filing petitions for declaratory judgment by referring to the enclosed Publication 892.

You may write to the courts at the following addresses:

United States Tax Court  
400 Second Street, N.W.  
Washington, D.C. 20217

U.S. Court of Federal Claims  
717 Madison Place, N.W.  
Washington, D.C. 20439

U.S. District Court for the District of Columbia  
333 Constitution Ave., N.W.  
Washington, D.C. 20001

Processing of income tax returns and assessments of any taxes due will not be delayed if you file a petition for declaratory judgment under section 7428 of the Internal Revenue Code.

You may also be eligible for help from the Taxpayer Advocate Service (TAS). TAS is an independent organization within the IRS that can help protect your taxpayer rights. TAS can offer you help if your tax problem is causing a hardship, or you've tried but haven't been able to resolve your problem with the IRS. If you qualify for TAS assistance, which is always free, TAS will do everything possible to help you. Visit [www.taxpayeradvocate.irs.gov](http://www.taxpayeradvocate.irs.gov) or call 1-877-777-4778.

If you have any questions about this letter, please contact the person whose name and telephone number are shown in the heading of this letter.

Sincerely Yours,

Appeals Team Manager

Enclosure: Publication 892

cc:

**Department of the Treasury  
Internal Revenue Service  
Tax Exempt and Government Entities Division  
Exempt Organizations: Examinations**

ORG

Date: March 10, 2015

Taxpayer identification number:

Form:

990 Return

Tax year(s) ended:

December 31, 20XX, 20XX, 20XX

Person to contact/ID number:

Contact numbers:

Telephone:

Fax:

Manager's name/ID number:

Manager's contact number:

Response due date:

**Certified Mail – Return Receipt Requested**

Dear :

**Why you are receiving this letter**

Enclosed is a copy of our report of examination explaining why revocation of your organization's tax-exempt status is necessary.

**What you need to do if you agree**

If you agree with our findings, please sign the enclosed Form 6018-A, *Consent to Proposed Action*, and return it to the contact at the address listed above. We'll send you a final letter revoking your exempt status.

**If we don't hear from you**

If we don't hear from you within 30 calendar days from the date of this letter, we'll process your case based on the recommendations shown in the report of examination and this letter will become final.

**Effects of revocation**

In the event of revocation, you'll be required to file federal income tax returns for the tax year(s) shown above. File these returns with the contact at the address listed above within 30 calendar days from the date of this letter, unless a request for an extension of time is granted. File returns for later tax years with the appropriate service center indicated in the instructions for those returns.

**What you need to do if you disagree with our findings**

If you disagree with our position, you may request a meeting or telephone conference with the supervisor of the contact identified in the heading of this letter. You also may file a protest with the IRS Appeals office by submitting a written request to the contact person at the address listed above within 30 calendar days from the date of this letter. The Appeals office is independent of the Exempt Organizations division and resolves most disputes informally.

For your protest to be valid, it must contain certain specific information, including a statement of the facts, the applicable law and arguments in support of your position. For specific information needed for a valid protest, please refer to page one of the enclosed Publication 892, *How to Appeal an IRS Decision on Tax-Exempt Status*, and page six of the enclosed Publication 3498, *The Examination Process*. Publication 3498 also includes information on your rights as a taxpayer and the IRS collection process. Please note that Fast Track Mediation referred to in Publication 3498 generally doesn't apply after we issue this letter.

If you and Appeals don't agree on some or all of the issues after your Appeals conference, or if you don't request an Appeals conference, you may file suit in United States Tax Court, the United States Court of Federal Claims, or United States District Court after satisfying procedural and jurisdictional requirements.

You may also request that we refer this matter for technical advice as explained in Publication 892. Please contact the person identified in the heading of this letter if you're considering requesting technical advice. If we send a determination letter to you based on a technical advice memorandum issued by the Exempt Organizations Rulings and Agreements office, then no further IRS administrative appeal will be available to you.

**Contacting the Taxpayer Advocate Office is a taxpayer right**

You have the right to contact the office of the Taxpayer Advocate Service (TAS). **TAS is your voice at the IRS. This service helps taxpayers whose problems with the IRS are causing financial difficulties; who have tried but haven't been able to resolve their problems with the IRS; and those who believe an IRS system or procedure is not working as it should. If you believe you are eligible for TAS assistance, you can call the toll-free number 1-877-777-4778 or TTY/TDD 1-800-829-4059. For more information, go to [www.irs.gov/advocate](http://www.irs.gov/advocate).** If you prefer, you may contact your local Taxpayer Advocate at:

Internal Revenue Service  
Office of the Taxpayer Advocate

**For additional information**

If you have any questions, please call the contact at the telephone number shown in the heading of this letter. If you write, please provide a telephone number and the most convenient time to call if we need to contact you.

Thank you for your cooperation.

Sincerely,

Margaret Von Lienen  
Director, EO Examinations

Enclosures:  
Report of Examination  
Form 6018-A  
Publication 892  
Publication 3498

Form <b>886-A</b> (Rev. January 1994)	<b>EXPLANATIONS OF ITEMS</b>		Schedule number or exhibit
Name of taxpayer  ORG	Tax Identification Number		Year/Period ended December 31, 20XX, 20XX, 20XX

**Issue(s):**

1. Whether ORG continues to qualify for exemption under IRC Section 501(c)(6)?
2. Whether the Organization's exemption under IRC Section 501(a), an organization described in IRC Section 501(c)(6), should be revoked effective **January 1, 20XX.**

**Facts:**

ORG (**Organization**) was granted exemption from Federal income tax, under Section 501(c)(6) of the Internal Revenue Code, in Letter 948 dated July 30, 19XX. Letter 984 showed the former name of the Organization as CO-1.

The Organization was incorporated under the laws of the State of State. By-Laws dated July 18, 20XX states the organization's Mission is "The recognition, support and promotion of those State professional innkeepers exclusively committed to the highest standards of excellence in distinctive lodging accommodations."

The Organization filed Forms 990, *Return of Organization Exempt from Income Tax*, for year 20XX, 20XX and 20XX. The Organization did not file Forms 990-T, *Exempt Organization Business Income Tax Return*.

Form 990 described the Organization's Mission as "to preserve the historical accommodations of STATE and educate the public and promote conserving utilization of the structures."

The Organization's three largest program services listed on the Form 990 are:

- Advertising and promoting support for the historic accommodations of State.
- Inspections and re-inspections of historical accommodations of State to assure they are being maintained and cared for properly.
- ACH and credit card processing facility.

The organization also conducted an Annual Convention listed on the Form 990 as a Fundraising Event. This Convention was open to the membership, associated membership and the public.

The Service conducted an examination of the books and records and the Organization's Form 990 for the year ending December 20XX.

The Director, Indv-1, stated that the Organization had 0 member properties and provided a Membership List. She was asked in regards of the name of the organization since it was not the same as the one in the determination letter. The Director said that as the organization "evolved", it became ORG.

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The Forms 990 show the following:

Year ending December 31, 20XX	
Revenue	Current Year
Contributions and Grants	0
Investment Income	0
Other Revenue	0
Total Revenue	0
<b>Expenses</b>	
Other expenses	0
Total Expenses	0
<b>Revenues less Expenses</b>	<b>0</b>
	End of Year
Total Assets	0
Total Liabilities	0
<b>Net Assets or Fund Balances</b>	<b>0</b>

Year ending December 31, 20XX	
Revenue	Current Year
Contributions and Grants	0
Investment Income	0
Other Revenue	0
Total Revenue	0
<b>Expenses</b>	
Other expenses	0
Total Expenses	0
<b>Revenues less Expenses</b>	<b>0</b>
	End of Year
Total Assets	0
Total Liabilities	0
<b>Net Assets or Fund Balances</b>	<b>0</b>

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Year ending December 31, 20XX	
Revenue	Current Year
Contributions and Grants	0
Investment Income	0
Other Revenue	0
Total Revenue	0
Expenses	
Other expenses	0
Total Expenses	0
Revenues less Expenses	0
	End of Year
Total Assets	0
Total Liabilities	0
Net Assets or Fund Balances	0

### Organization Activities

The review of the Transaction Reports, Minutes and interview revealed that the organization's main activities were to advertise and promote their membership properties through their website and publications.

The review of their activities showed that the organizations main activities are advertisement of the membership properties on their website, inspections and re-inspections of the properties, and served as an ACH and Credit Card processing facility.

The organization provided, to its membership properties, advertisement and promotion through their website [www.statebb.org](http://www.statebb.org), Location Guide Brochure and Innkeepers Resource Manual. The website contained a wedding page listing with direct links to the membership websites. The Organization also provided Gift Certificate sales through its website and its 1800 number, as stated on its brochures.

The examination showed that the organization held an Annual Convention for the membership, associated members and was open to the public. The convention had a Basic Workshop, a Conference for members, sponsors, and Vendor Registration.

The examination of the books and records showed that the organization's main activities were to provide particular services to its membership.

On December 1, 20XX, a review of the Form 990 statue date was done. We mailed Form 872, *Consent to Extend the Time to Assess Tax*, for the year 20XX, to | As per phone



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discussion with the Director about the form, we mailed Form 872 to the President of the organization, Indv-1, in City, State on December 15, 20XX.

We received a letter from Organization's President on December 19, 20XX declining to sign Form 872. As of the day of this report, we have not received an executed Form 872.

### **LAW:**

Section 6001 of the Code provides that every person liable for any tax imposed by the Code, or for the collection thereof, shall keep adequate record as the Secretary of the treasury or his delegate may from time to time prescribe.

Section 6033(a)(1) of the Code provides, except as provided in section 6033(a)(2), every organization exempt from tax under section 501(a) shall file an annual return, stating specifically the items of gross income, receipts and disbursements, and such other information for the purposes of carrying out the internal revenue laws as the Secretary may by forms or regulations prescribe, and keep such records, render under oath such statements, make such other returns, and comply with such rules and regulations as the Secretary may from time to time prescribe.

Section 1.6033-1(h)(2) of the regulations provides that every organization which has established its right to exemption from tax, whether or not it is required to file an annual return of information, shall submit such additional information as may be required by the district director for the purpose of enabling him to inquire further into its exempt status and to administer the provision of Subchapter F (section 501 and the following), chapter 1 of the code and section 6033.

IRC 501(c)(6) provides for exemption of business leagues, chambers of commerce, real estate boards, boards of trade, and professional football leagues (whether or not administering a pension fund for football players), which are not organized for profit and no part of the net earnings of which inures to the benefit of any private shareholder or individual.

IRC section 501(c)(6) provides for the exemption of business leagues and similar organization whose:

- a. Purpose is the promotion of the common business interest of its members,
- b. Net earnings do not inure to the benefit of any member,
- c. Purpose is not to engage in a regular business of a kind ordinarily carried on for profit,
- d. Principal activity is not the performance of particular services for individual persons.

Section 1.501(c)(6)-1 of the Income Tax Regulations states that a business league is an association of persons having some common business interest, the purpose of which is to promote such common interest and not to engage in a regular business of a kind ordinarily carried

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on for profit. It is an organization of the same general class as a chamber of commerce or board of trade. Thus, its activities should be directed to the improvement of business conditions of one or more lines of business as distinguished from the performance of particular services for individual persons. An organization, whose purpose is to engage in a regular business of a kind ordinarily carried on for profit, even though the business is conducted on a cooperative basis or produces only sufficient income to be self-sustaining, is not a business league.

*Rev. Rul. 55-444* states that an organization formed to promote the business of a particular industry that carries out its purposes primarily by conducting a general advertising campaign to encourage the use of products and services of the industry as a whole is exempt from tax notwithstanding that such advertising to a minor extent constitutes the performance of particular services for its members.

*Revenue Ruling 56-84* states that an organization, operated primarily for the purpose of promoting, selling and handling the national advertising in its members' publications, is engaged in the performance of particular services for individual members as distinguished from activities for the improvement of the business conditions of its members as a whole and, therefore, is not entitled to exemption from Federal income tax as a business league.

*Revenue Ruling 67-77* states that an organization composed of dealers of a certain make of automobile, in a designated area, whose primary purpose is the financing of advertising campaigns for the sale of that make of automobile is performing particular services for its members and is not entitled to exemption from Federal income tax as a business league under section 501(c)(6) of the Internal Revenue Code of 1954.

The publishing of trade journals has been found to constitute the performance of particular services where the journals are mainly catalogues of the product of members.

*Rev. Rul. 68-267* states that an exempt retail food merchants' association that regularly carries on as a minor portion of its activities a coupon redemption service for its members is engaged in unrelated trade or business.

Advertising that carries the names of members generally constitutes the performance of particular services for members. Thus, an association of the merchants in a particular shopping center whose advertising material contained the names of the individual merchants is denied exemption (see *Rev. Rul. 64-315, 1964-2 C.B. 147*) as is an association created to attract tourists to a local area, but whose principal activity is the publication of a yearbook consisting largely of paid advertisements by its members (see *Rev. Rul. 65-14, 1965-1 C.B. 236*). In another case exemption was denied an association that published catalogues that listed only products manufactured by the members. See *Automotive Electric Association v. Commissioner, 168 F.2d 366 (6<sup>th</sup> Cir. 1948)*.

On the other hand, an organization formed to promote the business of a particular industry and that conducts a general advertising campaign to encourage the use of products and services of

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the industry as a whole is exempt notwithstanding that such advertising to a minor extent constitutes the performance of particular services for its members. See Rev. Rul. 55-444, 1955-2, C.B. 258.

**Activities that Constitute the Performance of Particular Services.** The performance of particular services by an a organization for its members or others is not an exempt activity under IRC 501(c)(6) . While such activities do not preclude exemption in and of themselves, an organizing whose primary activity is performing particular services is not exempt under IRC 501(c)(6).

### **Government's Position:**

We are proposing revocation of the Organization's exemption under IRC Section 501(c)(6) beginning January 1, 20XX because it is not operated for exempt purposes in accordance with the requirements set forth in Section 501(c)(6) of the Internal Revenue Code.

The Service position is that the Organization has failed the basic tests in order to be exempt under IRC 501(c)(6). The Basic Tests the Organization must meet in order to be exempt under IRC 501(c)(6) are as follows:

- a. It must be an association of person having some common business interest, and its purpose must be to promote this common business interest.
- b. Is must not be organized for profit.
- c. It must be a membership organization and have a meaningful extent of membership support.
- d. No part of its net earnings may inure to the benefit of any private shareholder or individual.
- e. Its activities must be directed to the improvement of business conditions of one or more lines of business as distinguished from the performance of particular services for individual persons.
- f. Its purpose must not be to engage in a regular business of a kind ordinarily carried on for profit, even if the business is operated on a cooperative basis or produces only sufficient income to be self-sustaining.
- g. It must be primarily engaged in activities or functions constituting the basis for its exemption.
- h. Its primary activity cannot be performing particular services for members.

The Organization does not qualify for exemption from Federal income tax under section 501(c)(6) of the Code because its principal activities constitute the performance of particular services for its members. Its principal activities were advertisement for its members through the organizations' website; Inspections and re-inspections for the membership properties; ACH and credit card processing service; and sale of Gift Certificates thru the website and Organization's 1800 number. Those activities are considered a personal benefit to your members, of a commercial nature, and would preclude your exemption.

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Since the advertisement and promotion, inspections and re-inspections, ACH and credit card processing are the organization's principal activities, the organization does not qualify for exemption from Federal income tax under section 501(c)(6) of the Internal Revenue Code.

**Taxpayer's Position:**

The Organization's position is unknown at this time.

**Conclusion:**

The Organization does not qualify for exemption from Federal income tax under section 501(c)(6) of the Code because its principal activities constitute the performance of particular services for its members.

The Organization's tax exempt status should be revoked effective **January 1, 20XX**, because it is not operated for exempt purposes pursuant to the requirements set forth in Section 501(c)(6) of the Internal Revenue Code.

Should this revocation be upheld, you are required to file Form 1120 for the years ending December 31, 20XX, 20XX, 20XX and all future periods, whether or not you have taxable income.